



Georgia Department of Transportation

**Georgia Department of Transportation
Public-Private Partnership Guidelines**

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Appendix 1 Definitions

1. PURPOSE OF GUIDELINES

1.1. Intent of Guidelines

These Guidelines are intended to facilitate the implementation of the Department's Public-Private Partnership ("P3") program consistent with Sections 32-2-78 through 32-2-80 of the Official Code of Georgia Annotated ("P3 Legislation"), and Chapter 672-17 of the Rules of State Department of Transportation ("P3 Rules") and have been established pursuant to P3 Rule 672-17-.03. Further, these Guidelines are intended to provide a general framework, process and structure for the Department's P3 program. These Guidelines are advisory and descriptive in nature, and do not impose any legal obligations or liability on the Board, the Department or any of their members, employees, representatives and consultants.

1.2. Revisions to Guidelines

These Guidelines, including any appendices, may be periodically revised or updated to meet the needs of the P3 program. Revisions to these Guidelines require the approval of the Board.

1.3. Copy of Guidelines and Contact Information

These Guidelines are made available on the Department's website and pursuant to P3 Rule 672-17-.03, a copy of these Guidelines may also be obtained from the Office of the Chief Engineer, Department of Transportation, One Georgia Center, 22nd Floor, 600 W. Peachtree Street, NW, Atlanta, Georgia 30308.

Any questions regarding these Guidelines are referred to the P3 Director.

1.4. P3 Manual

The Department may prepare a manual with more details of recommended processes, procedures and practices to further facilitate the P3 program in a manner consistent with the P3 Legislation, P3 Rules and these Guidelines ("P3 Manual"). The Department may periodically revise and update the P3 Manual to meet the needs of the P3 program.

2. OVERVIEW OF THE P3 PROGRAM

2.1. Purpose and Goals

The P3 program is intended to seek innovative project delivery and innovative financing solutions from the private sector to meet the State's transportation infrastructure needs. The P3 program is one of many programs available to the Department to fulfill its mission. The goal of the P3 program is to create a fair, transparent and reliable process to support a climate for private sector innovation and investment in a manner that provides value and benefit to the State's transportation system.

2.2. Program Policies

The policies of the P3 program are set forth in P3 Rule 672-17-.01.

2.3. Statutory Authority

The Department conducts all procurements under the P3 program pursuant to the authority set forth in the P3 Legislation and P3 Rules.

3. PROGRAM ADMINISTRATION

The Department develops, implements and administers the P3 program. To fulfill these obligations, the Department has identified the need for a strategic organizational structure and strategy to define the roles, responsibilities and levels of involvement of the various participants in the P3 program. As of the date of these Guidelines, recommended roles, responsibilities and levels of involvement are set forth below. The Department may make changes to roles and responsibilities in this Section 3 as it deems necessary (except to the extent provided otherwise by the P3 Legislation, P3 Rules or any other applicable law), without any changes to these Guidelines. The P3 Manual may include a more in depth account of recommended roles, responsibilities and levels of involvement in the P3 program.

3.1. Department Organizational Structure, Roles and Responsibilities

3.1.1. State Transportation Board and Committees

In addition to the duties and responsibilities identified in the P3 Legislation and P3 Rules, the Board is also responsible for developing general policies governing the P3 program. The Board's P3 Committee reports on the progress and activities of the P3 program to the Board, including any issues requiring action or decision from the Board.

3.1.2. Director of Planning

In addition to the duties and responsibilities identified in the P3 Legislation and P3 Rules, the Director of Planning assists in the process of identifying, screening and selecting Projects for the P3 program. Further, the Director of Planning is one of the members on the Steering Committee.

3.1.3. Commissioner

In addition to the duties and responsibilities identified in the P3 Legislation and P3 Rules, the Commissioner is one of the members on the Steering Committee.

3.1.4. P3 Director

The P3 Director oversees and supervises the development and implementation of the P3 program, oversees the Office of Innovative Delivery and reports the P3 program activities to the Board's P3 Committee. The P3 Director is one of the members of the Steering Committee.

3.1.5. Finance Division

The Office of Budget Services and Office of Financial Management within the Finance Division provide support and assistance with respect to funding and financing issues related to the P3 program and a particular Project.

3.1.6. Office of Innovative Delivery

The Office of Innovative Delivery provides program and Project management support related to the P3 program, as well as oversight of the Project screening, identification and selection process (in conjunction with all other appropriate persons, as may be set out further in the P3 Manual).

3.1.7. Steering Committee

The Steering Committee provides oversight, guidance and direction with respect to the activities of the P3 program so that the P3 program activities are consistent with Board policies and directives. The Steering Committee meets as required, and may be assisted by a working group to address specific issues and tasks. The Steering Committee is comprised of the chairperson of the Board's P3 Committee, the Director of Planning, the Commissioner, the P3 Director, and other individuals designated by the Commissioner.

3.1.8. Selection Recommendation Committees and Subcommittees

The Selection Recommendation Committee performs the evaluation and scoring of Statements of Qualification and/or Proposals associated with a particular Project procurement. Members of the Selection Recommendation Committee are designated by the Steering Committee.

The Selection Recommendation Committee may be assisted by Selection Recommendation Subcommittees to provide advice with respect to technical, financial or legal aspects of Statements of Qualifications and/or Proposals. These Selection Recommendation Subcommittees may review submittals and provide advice to the Selection Recommendation Committee, but are not responsible for determining the final scores of the Statements of Qualifications and/or Proposals. Members of the Selection Recommendation Subcommittees are designated by the Steering Committee.

3.1.9. Procurement Team(s)

Once a Project has been selected for the P3 program, the procurement team is assembled. The procurement team performs the procurement activities for a particular Project, including the preparation and assembly of the solicitation documents.

3.1.10. Project Implementation Team(s)

Once the contract is executed, a Project implementation team is assembled. The Project implementation team oversees and administers the Department's responsibilities under the contract.

3.2. Use and Role of Consultants

The Department may retain individuals or firms to provide consulting services to assist and provide advice to the Department and its staff in implementing and administering the P3 program. All consultants retained by the Department for such purposes are required to execute a confidentiality and disclosure agreement in a form satisfactory to the Department's Office of Legal Services. Notwithstanding the use of consultants, the Department makes all decisions with respect to the P3 program.

3.3. Interagency and Intergovernmental Involvement

3.3.1. Local Governing Authorities and MPOs

The Department will consult with local governing authorities and applicable metropolitan planning organizations in compliance with the P3 Legislation and P3 Rules.

3.3.2. Interagency Coordination

The Department coordinates with applicable State agencies that may be affected by or have an interest in a Project, and the Department endeavors to enter into inter-agency agreements, memoranda of understanding or other arrangements with any applicable State agencies that are necessary to facilitate the procurement of the Project. The Department takes into account such activities in developing the Project work plan, schedule and public information and stakeholder outreach. Further, the solicitation documents specify the role of any applicable State agency in the procurement process to allow the Proposers to understand the nature of the involvement and responsibilities of such State agency.

3.3.3. United States Department of Transportation

For Projects that may receive federal-aid or are otherwise subject to federal requirements or approvals, the Department complies with all applicable federal requirements, including allowing oversight and obtaining any required reviews or approvals from the United States Department of Transportation and its modal administrations, including the Federal Highway Administration ("FHWA"), Federal Transit Administration ("FTA") and the Federal Railroad Administration ("FRA"). Further, the solicitation documents specify the role of any applicable federal agency in the procurement process to allow the Proposers to understand the nature of the involvement and responsibilities of such federal agency.

3.4. Public Information and Stakeholder Outreach

The Department develops and implements public information and stakeholder outreach in order to educate and engage the general public, media, elected officials and other interested parties concerning the P3 program.

3.5. Reporting of P3 Activities

Section 32-2-80(a)(6) of the P3 Legislation requires the Department to make periodic legislative reports. Such reports include, at a minimum, a summary of the following: (a) P3 programmatic activities performed during the reporting period; (b) a description and status of the Projects under procurement; and (c) a description and status of the Projects awarded. The P3 Director drafts the legislative reports, with the assistance and input of Department staff as needed.

4. P3 PROJECT IDENTIFICATION, SCREENING AND SELECTION

4.1. Goals and Objectives

As required by Section 32-2-79 of the P3 Legislation and P3 Rule 672-17-.01, the Department will periodically identify and report to the Board potential Projects that may be procured under the P3 Legislation.

The goal is for the Department to identify those Projects that promote the policies within the P3 Legislation and P3 Rules (summarized in Section 4.2 below) and that have the potential to be successful Projects.

The Department may, when appropriate and at its discretion, develop certain processes and procedures (which may be described in detail in the P3 Manual) to identify, screen and select potential Projects in a manner consistent with the principles and policies described in Sections 4.2 and 4.3. Factors that the Department will take into account will include, but are not limited to, the high-level considerations and characteristics set out in Sections 4.2 and 4.3 below.

4.2. Overview of Project Identification

P3 is best suited for those projects that generally require acceleration, projects that have unique opportunities to appropriately transfer risk to the Developer, or projects with opportunities for innovation that have the potential to significantly decrease construction time, reduce costs, or improve the safety and quality of the project. The decision to use P3 should be based on consideration of the specific goals and risks associated with each project.

(a) Projects typically have one or more of the following characteristics:

- (i) provide opportunities for innovation in design, construction, operations, maintenance or financing;
- (ii) are accelerated for the public benefit;

- (iii) include complex constructability and/or interface issues;
 - (iv) support economic development;
 - (v) maximize the use of available funding; or
 - (vi) include software development or integration, or rapidly changing technologies.
- (b) Projects may be identified in a number of ways, which include through:
- (i) regular discussions within the Department as part of a routine process to identify and evaluate projects for P3 delivery;
 - (ii) any Department office requesting the evaluation of a specific project or group of projects for P3 suitability; or
 - (iii) meetings with various Department personnel to review the State-wide Strategic Transportation Plan to identify candidate projects.

4.3. Considerations for Identifying Potential Projects

When identifying potential Projects, the Department will take into consideration:

- (a) the principles in Section 32-2-79(a) of the P3 Legislation, which require the Department to identify those projects on the state-wide transportation improvement program or otherwise identified that afford the greatest gains in congestion mitigation or promotion of economic development;
- (b) the investment policies used for preparing the State-wide Strategic Transportation Plan as outlined in Section 32-2-41.1 of the Official Code of Georgia Annotated which address:
 - (i) growth in private-sector employment, development of work force, and improved access to jobs;
 - (ii) reduction in traffic congestion;
 - (iii) improved efficiency and reliability of commutes in major metropolitan areas;
 - (iv) efficiency of freight, cargo, and goods movement;
 - (v) coordination of transportation investment with development patterns in major metropolitan areas;
 - (vi) market driven travel demand management;

- (vii) optimized capital asset management;
 - (viii) reduction in accidents resulting in injury and loss of life;
 - (ix) border-to-border and interregional connectivity; and
 - (x) support for local connectivity to the state-wide transportation network;
- (c) the policies of the Department stated in P3 Rule 672-17-.01(1) to consider the feasibility of private involvement in projects undertaken pursuant to the P3 Legislation based on stated objectives of the Department which include:
- (i) expedite project delivery and maximize innovation in project financing and delivery;
 - (ii) leverage and supplement limited public funds available for public projects;
 - (iii) facilitate the collaboration and cost and risk sharing in public projects between the public and private partners;
 - (iv) foster flexibility in procurement methods to provide the best value to the public;
 - (v) encourage cooperative partnerships between and among the public and private sectors;
 - (vi) promote and encourage the use of local labor and resources, as well as disadvantaged, minority and small business enterprises, consistent with applicable law, including requiring a private partner who has been awarded a contract for a Public-Private Partnership to establish a local office within the State of Georgia; and
 - (vii) advance the investment policies of the Department (set out in paragraph (b) above); and
- (d) the factors identified in P3 Rule 672-17-.01(2):
- (i) the potential for value added by the private sector;
 - (ii) the Department's preparedness;
 - (iii) project maturity;
 - (iv) financial feasibility;
 - (v) project scope; and
 - (vi) market interest.

4.4. Biennial Reporting of P3 Candidate Projects

The P3 Director will prepare a list of Projects that the Department considers candidates to be procured under the P3 Legislation. The Commissioner will submit and report the list to the Board by the date specified in Section 32-2-79(a) of the P3 Legislation. The Department in its discretion may supplement this list to take into account, among other things, changes in the status of Projects and the transportation needs of the State.

5. PROCUREMENT PLANNING

5.1. Approach to Procurement

The Department may, as it deems necessary, on a Project-by-Project basis (taking into account Project-specific considerations), develop certain processes and procedures to identify, evaluate and resolve procurement issues, in order to facilitate a successful P3. These processes and procedures may be described in more detail in the P3 Manual and may include those described in Sections 5.2 through 5.6 below.

5.2. Waivers from Federal Requirements

For a Project using federal-aid funds or otherwise subject to federal requirements, the procurement team considers whether deviations from applicable federal requirements may benefit the Project or the procurement process and recommends to the Steering Committee if waivers from such federal requirements should be sought from FHWA. Such deviations may relate to contracting techniques, environmental requirements, right-of-way acquisition and financing. If the Steering Committee determines that such waivers should and can be sought, through FHWA's Special Experimental Project ("SEP") program or otherwise, the Department commences the process as early as practicable in the procurement process.

5.3. Federal Tolling Applications

If the Project uses federal-aid funds and involves tolling, the procurement team considers whether federal laws and regulations require a toll agreement or other approval for tolling the Project. If a tolling agreement or other approval is required, the Department commences the process as early as practicable in the procurement process.

5.4. Pre-Solicitation Industry Outreach

5.4.1. Pre-Solicitation Industry Forum

The procurement team recommends to the Steering Committee, for approval, whether a pre-solicitation industry forum should be conducted for the Project. Factors to consider include, but are not limited to, the degree of market interest, the scope, nature and complexity of the Project, and the degree of public and political support.

5.4.2. One-On-One Industry Meetings

In addition to or in lieu of a pre-solicitation industry forum, the Department may meet with interested parties to gauge market interest for a Project. The procurement team develops protocols and procedures to promote the impartiality and fairness of these meetings.

5.5. Project Public Information and Stakeholder Outreach

The procurement team assists the Department's public information officer in identifying activities, including outreach to the relevant stakeholders and the public comment process required under the P3 Legislation and P3 Rules.

5.6. Procurement Method and Other Decisions

5.6.1. Two-Step versus One-Step Procurement

The procurement team recommends to the Steering Committee, for approval, whether the Project should be procured utilizing a two-step process (i.e. Request for Qualifications followed by a Request for Proposals) or one-step process (i.e. Request for Proposals with no Request for Qualifications).

5.6.2. Confirmation of Selected Project Delivery Method

The procurement team recommends to the Steering Committee, for approval, whether the project delivery method initially selected should be changed. Factors to consider include, but are not limited to, changes to the status of the environmental process and funding requirements.

5.6.3. Payment for Work Product

The procurement team recommends to the Steering Committee, for approval, whether the solicitation documents should include: (1) a payment to unsuccessful Proposers who submit responsive Proposals in exchange for the Proposer's work product; (2) a payment in the event that the Department cancels the solicitation before receipt of Proposals; and (3) a payment under any other circumstances. In determining the amount of such payment, if any, P3 Rule 672-17-.04(3)(d) sets forth the factors that the Department must consider.

5.6.4. Proposal, Performance and Payment Security

The procurement team recommends to the Steering Committee, for approval, the appropriate form and amount of the proposal, performance and payment security for the Project. Such security may be in the form of a bond, letter of credit, parent guarantee or other form. In determining the appropriate amount of the performance and payment security, Section 32-2-80(e) of the P3 Legislation requires the Department to consider what sum may be required to adequately protect the Department, the State and the contracting and subcontracting parties.

6. GENERAL REQUIREMENTS APPLICABLE TO PROCUREMENTS

6.1. Compliance with Conflict of Interest and Ethics Policies

6.1.1. State Employees

Throughout the procurement process, all State employees are subject to any applicable federal and State conflict of interest and ethics laws, rules and policies, including 23 C.F.R. § 636.116, Title 45, Chapter 10 of the Official Code of Georgia Annotated.

In addition, throughout the procurement process, State employees participating in a procurement are not allowed to accept any gifts, loans, gratuities, favors or hospitality for himself/herself or his/her family, from any Proposer who submits, or intends to submit, a Statement of Qualifications or Proposal, for that procurement. A State employee has an ongoing obligation to disclose to the Department any financial, business or employment interest that he/she or any member of his/her family has with respect to a Proposer. Any such disclosure is submitted to and reviewed by the Department's Office of Legal Services to determine, in the Department's sole discretion, whether the State employee's participation in the procurement will be limited or otherwise prohibited. Any State employee participating in a procurement executes a confidentiality and disclosure agreement in a form satisfactory to the Office of Legal Services.

6.1.2. Private Entities

All participants in a P3 procurement (employees, consultants and potential Proposers) must comply with the Department's policies regarding conflicts of interest and ethics which are intended to: (1) protect the integrity, fairness and competitive nature of the procurement process; (2) avoid circumstances that result in an actual or perceived unfair competitive advantage for a potential Proposer(s); and (3) protect the interests of the public and the Department.

6.2. Communications with the Board, Department and Consultants

In order to provide a fair and unbiased procurement process, the solicitation documents for each Project contain rules of contact regulating communications between a Proposer or any of its team members with any member of the Board, Department employee or Department consultant involved in the preparation of the solicitation documents or evaluation of proposals for such Project. The solicitation documents provide a list of Department consultants with whom such person or entity is limited, restricted or prohibited from communicating with as set forth in the solicitation documents.

6.3. Proposer Eligibility and Certification Requirements

6.3.1. Proposer Eligibility

The Department has established rules (Chapter 672-5 of the Rules of State Department of Transportation) for pre-qualifying contractors and related policies and procedures for pre-qualifying professional consultants (refer to the "Consultant Prequalification Manual" available on the Department's website) and contractors (Georgia Department of Transportation Standard

Specifications, Construction of Transportation Systems, Section 102.01) who perform work for the Department. The solicitation documents specify the pre-qualification requirements for performing any applicable portion of the work (which shall be consistent with Department policies and procedures), and whether pre-qualification is a condition to being on a Proposer team (either as the lead or a lower-tiered consultant or contractor) for contract award.

6.3.2. Certification Requirements

The solicitation documents specify the certifications required to be provided by a Proposer. Certifications may address, but are not limited to, the following topics:

- Suspension and debarment
- Non-collusion
- Compliance with Buy America requirements
- Use of Disadvantaged Business Enterprises
- Use of contract funds for lobbying
- Compliance with Equal Employment Opportunity requirements

6.4. Public Records and Confidentiality of Information

The Georgia Open Records Act, Section 32-2-80(a)(4) of the P3 Legislation and P3 Rule 672-17-.06(2) protect trade secrets or proprietary information submitted by the Proposer from public disclosure. The solicitation documents contain requirements for the Proposer to conspicuously identify those portions of its submissions which it deems to be trade secrets or proprietary information. The Department may require a Proposer to provide justification as to why such materials should not be disclosed to the public.

The Department makes the final determination of whether the information is to be disclosed or withheld. The Department shall endeavor to provide advance notice to the Proposer if the Department receives a request for public disclosure under the Georgia Open Records Act and intends to disclose the Proposer's information.

6.5. Payment for Work Product

If payment will be made for work product pursuant to P3 Rule 672-17-.04(3)(d), the solicitation documents specify the amount, timing, manner and conditions of payment, as well as any rights and liabilities that the parties may have to such work product.

6.6. Issuance of Drafts and Amendments to RFQ and RFP

During the solicitation period, the Department may issue draft solicitation documents and amendments to the solicitation documents. Amendments are typically issued after reviewing the

clarification requests from the Proposers or when additional information becomes available during the course of the procurement process.

6.7. Compliance with Federal Requirements

For Projects receiving federal-aid or otherwise subject to applicable federal requirements, the solicitation documents include provisions requiring the Proposers to comply with any applicable federal requirements and execute all required certifications, affidavits and forms required by such federal requirements.

6.8. Performance and Payment Security Requirements

Section 32-2-80(e) of the P3 Legislation requires that all contracts require the private partner or its prime contractors to provide performance and payment security. The solicitation documents specify the amount, form and terms of such performance and payment security.

6.9. Protest Rights and Procedures

P3 Rule 672-17-.07 prescribes the exclusive protest rights and procedures with respect to the P3 procurement process. Any additional information and requirements with respect to submitting a protest are set forth in the solicitation documents.

7. REQUEST FOR QUALIFICATIONS

7.1. General Content and Organization of RFQ

Pursuant to P3 Rule 672-17-.04(2), the Department may issue a Request for Qualifications (“RFQ”) for a Project for the purpose of identifying a list of the most qualified Proposers who are determined to have the required qualifications, experience and approach to development of the Project. In response to an RFQ, the Department requires the Proposers to submit a Statement of Qualifications (“SOQ”). While an RFQ must be adapted to the specific requirements of a Project, Sections 7.1.1 through 7.1.3 below provide an example of the content and organization for RFQs issued by the Department under the P3 program.

7.1.1. Background and Overview

The RFQ provides information regarding the Project and the solicitation process for the Project. Information provided may include, but is not limited to, the following:

- A description of the Project and the services sought from the private sector
- A description of the procurement process, including the contemplated procurement schedule
- Rules and procedures with respect to communications related to the RFQ
- The environmental status of the Project

- Anticipated funding and financing of the Project
- A description and status of any work and studies performed by the Department for the Project
- Whether it is anticipated that payment will be made for work product
- Pre-qualification requirements

7.1.2. Statement of Qualifications Requirements

The RFQ describes the information that must be provided in the SOQ. Information requested may include, but is not limited to, the following:

- Formatting requirements, page limitations, font size, etc.
- Information regarding the Proposer and the Proposer's team, which may include:
 - identity;
 - identity of its equity members and its known major non-equity members;
 - management structure;
 - relevant experience in each of the key areas of the anticipated scope of work;
 - project references; and
 - legal qualifications, issues, liabilities, and claims and legal proceedings in which the Proposer or its equity members has been involved
- A conceptual development plan for the Project, which may include:
 - general approach to the work;
 - anticipated roles and responsibilities of the Department, the Proposer, the Proposer's team members, and any third parties; and
 - approach to securing the necessary resources, approvals, materials, equipment and personnel
- Financial statements and credit ratings for the Proposer and its equity members, as well as the identity of proposed guarantors for each
- A conceptual financial plan for the Project

- Recommendations for the RFP documents

7.1.3. Evaluation Criteria and Process

The RFQ identifies the evaluation criteria, relative weight given to such criteria and the process for qualifying Proposers. Information provided may include, but is not limited to, the following:

- The pass/fail and responsiveness review process
- The process for requesting clarifications and responding thereto with respect to an SOQ

7.2. RFQ Notices

7.2.1. Notice of Intent to Issue RFQ

Prior to the issuance of an RFQ, the Department may issue a Notice of Intent to Issue RFQ. The Notice of Intent to Issue RFQ includes, at a minimum, the following information: (1) a general description of the Project, including location and estimated construction cost; (2) a general description of the scope of work; and (3) the anticipated date for issuing the RFQ. The Notice of Intent to Issue RFQ is posted in the same manner prescribed for Requests for Qualifications under P3 Rule 672-17.-04(2)(b).

7.2.2. Issuance of RFQ

Issuance of the RFQ, and notice thereof, is posted in accordance with the time and manner prescribed in P3 Rule 672-17.-04(2)(b).

7.3. RFQ Meeting, Questions and Responses

After issuance of the RFQ and prior to receiving SOQs, the Department may schedule a group meeting or one-on-one meetings with potential Proposers to review the Project, the contents of the RFQ and the RFQ schedule. The RFQ sets forth the date and location of the meetings, if any. Further, the procurement team develops protocols and procedures to promote the impartiality and fairness of such meetings.

In addition, the RFQ may allow potential Proposers to submit written questions to the Department regarding the RFQ requirements, and the Department to provide written responses. The procurement team compiles the questions and develops responses which are transmitted to all potential Proposers. The Department may elect to issue addenda to the RFQ based on the written questions received.

7.4. Receipt and Storage of Statement of Qualifications

The RFQ specifies the time, location and manner for submitting SOQs to the Department. The procurement team develops instructions and implements procedures for receiving, logging,

distributing, transferring, accessing and storing SOQs so that the SOQs are secure and protected from unauthorized access. All persons having access to SOQs execute a confidentiality and disclosure agreement in a form satisfactory to the Office of Legal Services.

7.5. Evaluation of Statement of Qualifications

7.5.1. Evaluation Criteria and Methodology

Prior to the receipt of the SOQs, the procurement team develops and recommends to the Selection Recommendation Committee, for approval, the evaluation methodology for ranking and qualifying Proposers consistent with the evaluation criteria identified in the RFQ. Generally, the evaluation process for SOQs involves the following steps:

- Submissions are first evaluated against pass-fail criteria and reviewed for responsiveness.
- Responsive submissions are then evaluated by applicable Selection Recommendation Subcommittees using specified evaluation criteria and given recommended ratings/scorings.
- Each Selection Recommendation Subcommittee chair presents its recommended ratings/scorings and answers questions raised by the Selection Recommendation Committee.
- The Selection Recommendation Committee conducts final ratings/scoring based on the ratings and evaluation methodology approved in advance of issuance of the RFQ by the Selection Recommendation Committee.
- The Selection Recommendation Committee recommends a list of most qualified Proposers to the Steering Committee for approval.

7.5.2. Evaluation Manual

The procurement team develops a focused evaluation manual for each RFQ. The purpose of the evaluation manual is to provide a clear and uniform process for evaluating SOQs. Topics to address may include, but are not limited to, the following:

- Confidentiality and nondisclosure requirements
- The schedule for evaluation activities
- The process for and provisions ensuring document security during the evaluation
- Provisions setting forth the evaluation process to be used by the Selection Recommendation Committee and Selection Recommendation Subcommittees
- Details with respect to the rating/scoring system to be followed

7.5.3. Selection Recommendation Committee and Selection Recommendation Subcommittee Duties

Prior to the receipt of the SOQs, members of the Selection Recommendation Committee and any Selection Recommendation Subcommittees are designated in accordance with Section 3.1.8 of these Guidelines. The Selection Recommendation Committee performs the final scoring, ranking and qualifying recommendation and is solely comprised of Department, other State agency, participating local governing authority, or metropolitan planning organization personnel.

The purpose of the Selection Recommendation Subcommittees is to provide additional resources and special subject matter expertise to assist and advise the Selection Recommendation Committee. The Selection Recommendation Subcommittees may include consultants, participating local governing authority personnel, metropolitan planning organization personnel or other persons not employed by the Department.

7.5.4. Evaluator Training

Prior to the receipt of the SOQs, the Department conducts an evaluation training session with individuals serving on the Selection Recommendation Committee and Selection Recommendation Subcommittees, and with any individuals authorized to observe the evaluation process (e.g. FHWA, participating local governing authority, metropolitan planning organization representatives). The purpose of the training session is to inform all participants regarding the general evaluation process and the requirements for accessing, handling and preventing the unauthorized disclosure of the SOQs.

7.5.5. Recommendation, Approval and Notification

Each member of the Selection Recommendation Committee evaluates the SOQs in accordance with the evaluation methodology. The Selection Recommendation Committee meets, ranks the potential Proposers submitting responsive SOQs and prepares a recommended list of most qualified Proposers by consensus. The recommended list is submitted to the Steering Committee for approval. P3 Rule 672-17-.04(2)(c) requires the list to be comprised of at least two qualified Proposers, but no more than five qualified Proposers.

Following approval of the list by the Steering Committee, the Department issues a letter notifying a Proposer whether or not the Proposer has been listed. The list of most qualified Proposers is posted in the same manner prescribed for Requests for Qualifications under P3 Rule 672-17-.04(2)(b).

The most qualified Proposers may be invited to respond to an RFP and engage in individual discussions and interview with the Department as detailed in Section 8 of these Guidelines.

8. REQUEST FOR PROPOSALS

8.1. Issuance of RFP

Pursuant to P3 Rule 672-17.04(3), the Department may issue an RFP (1) after listing at least two most qualified Proposers or (2) if an RFQ was not previously issued, to initiate a solicitation.

The Department may choose to issue a draft RFP prior to issuing a final RFP. Factors to consider in determining whether to issue a draft RFP may include, but are not limited to, the following:

- The benefit of identifying commercially unacceptable terms, as well as terms that may have an unanticipated effect of driving up costs, delaying the Project schedule, or otherwise adversely affecting the Project
- The value of identifying any ambiguities or inconsistencies that may exist in the RFP documents
- The degree to which advance dialogue with the Proposers would assist in addressing concerns with respect to or expediting the procurement process

8.2. General Content and Organization of RFP

While an RFP must be adapted to the specific requirements of a Project, Sections 8.2.1 through 8.2.3 below provide an example of the general content and organization for RFPs issued by the Department under the P3 program.

8.2.1. Instructions to Proposers

The RFP contains instructions to proposers (“ITP”) to provide information about the Project and procurement process and requirements for submitting Proposals. The ITP does not become part of the contract, but may contain forms which the Proposer completes for incorporation into the contract documents. The ITP provides, at a minimum, information regarding the following topics (to the extent applicable):

- Scope and nature of the Project and the services sought from the Proposer
- Legal requirements applicable to the Project
- Proposed financial participation of the Department and the Proposer in the Project
- Procurement process and schedule
- Process for submitting any alternative technical concepts, alternative financial concepts and other pre-Proposal submissions

- Requirements for submitting a Proposal
- Amount and conditions for payment of work product, if any
- Evaluation criteria and process
- Process for discussions, negotiations, selection, award and contract execution
- Protest procedures

8.2.2. Contract and Technical Provisions

The RFP contains the contract that the Department and the successful Proposer will be expected to sign. The contract may include, but is not limited to, the provisions identified in P3 Rule 672-17-.04(4). The RFP also contains or identifies the technical provisions that the Proposer must comply with in performing the services required under the contract.

8.2.3. Reference Information Documents

The RFP may contain reference information documents related to the Project. Unless specified otherwise in the ITP or the contract, these documents are provided solely for reference and information purposes.

8.3. Additional RFP Requirements for One-Step Procurement

If the Department initiates a solicitation by issuing an RFP without the use of an RFQ, the RFP requires the Proposer to furnish additional information and evidence to enable the Department to determine the qualifications and experience of the Proposers to perform the services required for the Project.

8.4. RFP Notices

8.4.1. Notice of RFP Following RFQ

If the Department has qualified at least two Proposers, issuance of the RFP, and notice thereof, is in accordance with the manner prescribed in P3 Rule 672-17-.04(3)(c).

8.4.2. Notice of RFP Without RFQ

If the Department intends to initiate a solicitation by issuing an RFP without establishing a list of qualified Proposers, the Department may issue a Notice of Intent to Issue RFP prior to issuance of the RFP. The Notice of Intent to Issue RFP may include, but is not limited to, the following information: (1) a general description of the Project, including location and estimated construction cost; (2) a general description of the scope of work; and (3) the anticipated date for issuing the RFP. The Notice of Intent to Issue RFP is posted in the same manner prescribed for Requests for Proposals under P3 Rule 672-17-.04(3)(b). Issuance of the RFP, and notice thereof, is in accordance with the time and manner prescribed in P3 Rule 672-17-.04(3)(b).

8.5. Communications with Proposers

8.5.1. One-on-One Meetings; Written Questions and Responses

During the RFP process, the Department may schedule one-on-one meetings with the Proposers. The purpose of the meetings is for the Department to gather information, comments and concerns from the Proposers in a conversational setting. The procurement team develops protocols and procedures to promote the impartiality and fairness of the meetings. All communications will be subject to the communications protocols published in the ITP.

In addition or as an alternative to one-on-one meetings, the Department may provide Proposers the opportunity to submit written questions regarding the RFP. The procurement team compiles the questions and, where appropriate, may develop responses which are transmitted to all Proposers. The Department may elect to take these questions into account when issuing amendments to or subsequent drafts of the draft RFP or the final RFP.

8.5.2. ATCs, AFCs and Other Pre-Proposal Submissions

The RFP may allow the Proposers to request deviations from the Project's technical requirements or financial requirements, known as alternative technical concepts ("ATCs") and alternative financial concepts ("AFCs") respectively. The requirements and procedures for submitting ATCs and AFCs, if allowed, are specified in the RFP. The Department may reject ATCs and AFCs at its sole discretion.

If the RFP provides the Proposers with the option of submitting ATCs or AFCs, or if other pre-Proposal submissions are required or allowed, the Department requires such concepts and information to be presented sufficiently in advance of the Proposal submission to allow the Department adequate time to review and analyze such concepts and information.

8.6. Receipt and Storage of Proposals

The RFP specifies the time, location and manner for submitting Proposals to the Department. The procurement team develops instructions and implementing procedures for receiving, logging, distributing, transferring, accessing and storing Proposals so that the Proposals are secure and protected from unauthorized access. All persons having access to the Proposals execute a confidentiality and disclosure agreement in a form satisfactory to the Office of Legal Services.

8.7. Evaluation of Proposals

8.7.1. Evaluation Criteria and Methodology

Prior to the receipt of the Proposals, the procurement team develops and recommends to the Selection Recommendation Committee, for approval, the evaluation methodology for: (1) determining responsive Proposals (2) ranking proposals and (3) selecting the Proposer(s) for contract award, all consistent with the evaluation criteria identified in the RFP. Generally, the evaluation process for RFPs involves the following steps:

- Submissions are reviewed for responsiveness and evaluated against pass-fail criteria.
- Responsive submissions are then evaluated by applicable Selection Recommendation Subcommittees using specified evaluation criteria and given recommended ratings/scorings.
- Each Selection Recommendation Subcommittee chair presents its recommended ratings/scorings to and answers questions raised by the Selection Recommendation Committee.
- Based on the responsiveness and rating/scoring review process above, the Selection Recommendation Committee recommends to the Steering Committee the Proposal determined to provide the apparent best value.
- The Steering Committee recommends to the Board for approval the Proposal determined to provide the apparent best value.

8.7.2. Evaluation Manual

The procurement team develops a focused evaluation manual for each RFP. Refer to Section 7.5.2 of these Guidelines for additional information.

8.7.3. Selection Recommendation Committee and Selection Recommendation Subcommittee Duties

Prior to the receipt of the Proposals, members of the Selection Recommendation Committee and any Selection Recommendation Subcommittees are designated in accordance with Section 3.1.8 of these Guidelines. The Selection Recommendation Committee recommends the apparent best value Proposal to the Steering Committee.

The Selection Recommendation Committee is solely comprised of Department, other State agency, participating local governing authority, or metropolitan planning organization personnel.

The purpose of the Selection Recommendation Subcommittees is to provide additional resources and special subject matter expertise to assist and advise the Selection Recommendation Committee. The Selection Recommendation Subcommittees may include consultants, participating local governing authority personnel, metropolitan planning organization personnel, or other persons not employed by the Department.

8.7.4. Evaluator Training

Prior to the receipt of the Proposals, the Department conducts an evaluation training session with all individuals serving on the Selection Recommendation Committee and Selection Recommendation Subcommittees, and with any individuals authorized to observe the evaluation process (e.g. FHWA, participating local governing authority, metropolitan planning organization representatives). The purpose of the training session is to inform participants regarding the

general evaluation process and the requirements for accessing, handling and preventing the unauthorized disclosure of the Proposals.

8.8. Public Comment Process

Section 32-2-80(a)(3) of the P3 Legislation and P3 Rule 672-17-.04(3)(g) provide the public with the opportunity to submit written comments and a public hearing. The P3 Director assists and coordinates with the Department's public information officer with respect to the activities required and scheduling for the public comment process. Generally, the public comment process is as follows:

- The Selection Recommendation Committee notifies the P3 Director and the procurement team of the Proposals deemed responsive to the RFP.
- The procurement team provides a copy of the executive summary from each responsive Proposal to the P3 Director. The RFP requires a Proposer to furnish an executive summary in its Proposal, notifying the Proposer that the executive summary is subject to public disclosure.
- At least ten days after the receipt of Proposals, the P3 Director provides the executive summaries for posting for public comment in accordance with manner and time prescribed in P3 Rule 672-17-.04(3)(g). The posting provides instructions to the public regarding: (1) the method and deadline for providing written comments to the Department, and (2) the time and location for the public hearing.
- The Department holds a public hearing before the expiration of the public comment period. The hearing is in each county where the Project, or portion thereof, is located.

8.9. Discussions and Negotiations After Proposal Submission

8.9.1. Selection of Proposers for Discussions and Interviews

Following submission of Proposals, the Selection Recommendation Committee may select two or more Proposers for further individual discussions and interviews. All persons representing the Department or any local governing authorities that participate in such discussions and interviews execute a confidentiality and disclosure agreement in a form satisfactory to the Office of Legal Services.

8.9.2. Selection of Proposers for Negotiations

The Department may seek best and final offers from two or more Proposers in accordance with the requirements and procedures set forth in the Request for Proposals. The process of seeking best and final offers qualifies as negotiations pursuant to Section 32-2-80(a)(4) of the P3 Legislation and P3 Rule 672-17-.04(3)(e).

8.9.3. Right to Enter Discussions and Negotiations with One Proposer

The Department may enter into discussions and/or negotiate with only one Proposer pursuant to Section 32-2-80(a)(4) of the P3 Legislation and P3 Rule 672-17-.04(3)(e). Further, pursuant to Section 32-2-80(a)(5) of the P3 Legislation, the Department is not obligated to continue discussions and/or negotiations, and may cease such discussions and/or negotiations at any time.

8.10. Approval of Apparent Best Value Proposal and Award

After the conclusion of the evaluation process, the Selection Recommendation Committee presents its recommendations to the Steering Committee who will determine whether to recommend to the Board, for approval, award to the Proposer whose Proposal has been determined to provide the apparent best value to the State. The Board evaluates the recommendations and determines whether to proceed with award, subject to satisfying the conditions set forth in the RFP, or cancel the procurement and elect not to proceed with conditional award.

The Board's decision of conditional award is made in a public meeting and with a public announcement of intent to award the contract by the Board. Further, at the public meeting, the Board announces the rankings of the Proposers, followed by written notification to the Proposers and posting on the Department's website.

8.11. Debriefings

Proposers who are not selected for award may request a debriefing from the Department. The requirements and time frame for requesting a debriefing are set forth in the RFP. Debriefings are generally:

- Limited to discussion of the unsuccessful Proposer's Proposal and do not include discussion of a competing Proposal
- Factual and consistent with the evaluation of the unsuccessful Proposer's Proposal
- To provide information on areas in which the unsuccessful Proposer's Proposal had weaknesses or deficiencies

Debriefings do not include discussion or dissemination of the thoughts, notes or rankings of the individual members of the Selection Recommendation Committee or Selection Recommendation Subcommittee.

8.12. Post-Award Activities

8.12.1. Finalizing Contract and Satisfying Conditions

After the announcement of intent to award the contract, the Department and the successful Proposer meet to finalize the terms and conditions of the contract. Further, all

deliverables required under the RFP as a condition to final award are furnished by the Department and the successful Proposer, as applicable.

8.12.2. Approval of Contract

Prior to the scheduled date for contract execution, the final form of the contract is submitted to the Board for review and approval.

8.12.3. Phase Transition

The Department will facilitate the Project's transition from the procurement phase to the contract administration and implementation phases.

DEFINITIONS

Board means the State Transportation Board of the Georgia Department of Transportation.

Commissioner means the commissioner of the Georgia Department of Transportation.

Department means the Georgia Department of Transportation.

Director of Planning means the director of planning of the Georgia Department of Transportation.

FHWA means Federal Highway Administration.

FRA means Federal Railroad Administration.

FTA means Federal Transit Administration.

Guidelines means these Public-Private Partnership Guidelines of the Georgia Department of Transportation, as may be revised from time to time in accordance with Section 1.2 of these Guidelines.

ITP means the instructions referenced in Section 8.2.1 of these Guidelines.

Notice of Intent to Issue RFQ means the notice referenced in Section 7.2.1 of these Guidelines.

Notice of Intent to Issue RFP means the notice referenced in Section 8.4.2 of these Guidelines.

P3 means Public-Private Partnership.

P3 Committee means the committee for Public-Private Partnerships of the State Transportation Board.

P3 Director means the individual described in Section 3.1.4 of these guidelines.

P3 Legislation means Sections 32-2-78 through 32-2-80 of the Official Code of Georgia Annotated.

P3 Rules means Chapter 672-17 of the Rules of State Department of Transportation.

Project has the meaning set forth in Section 32-2-78(2) of the Official Code of Georgia Annotated.

Proposer has the meaning set forth in P3 Rule 672-17-.02(j) .

Proposal means a written submission for a Public-Private Partnership from a Proposer to the Department in response to a Request for Proposals.

Public-Private Partnership or **P3** has the meaning set forth in P3 Rule 672-17-.02(k).

Request for Qualifications or **RFQ** has the meaning set forth in P3 Rule 672-17-.02(m).

Request for Proposals or **RFP** has the meaning set forth in P3 Rule 672-17-.02(l).

Selection Recommendation Committee means the committee described in Section 3.1.8 of these Guidelines.

Selection Recommendation Subcommittees means the subcommittees described in Section 3.1.8 of these Guidelines.

SEP means the FHWA's Special Experimental Project program.

State means the State of Georgia.

Statement of Qualifications or **SOQ** means a written submission for a Public-Private Partnership from a Proposer to the Department in response to a Request for Qualifications.

Steering Committee means the committee described in Section 3.1.7 of these Guidelines.